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Message Text

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64
ORIGIN L-02

INFO OCT-01 EUR-12 IO-10 ISO-00 OIC-02 PM-03 NSC-05 SP-02

SS-15 CIAE-00 INR-07 NSAE-00 CPR-01 SSO-00 NSCE-00

INRE-00 /060 R

DRAFTED BY L:L/UNA:MJMATHESON:MAB
APPROVED BY L:L/UNA:MJMATHESON
IO/UNP - MR. BAKER (SUBS)
---------- 100650
O R 192055Z PEB 75
FM SECSTATE WASHDC
TO AMEMBASSY VIENNA IMMEDIATE
INFO USMISSION USUN NEW YORK

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E.O. 11652: N/A
TAGS: AORG, PORG, PDIP, UN
SUBJECT: UN CONF. ON REPRESENTATION OF STATES

REF: VIENNA 1098

1. ANSWER TO QUESTION POSED IN REFTEL CONCERNING COMMENCE-
MENT OF P&I OF UN DELS IN NEW YORK IS NOT ENTIRELY CLEAR
AS A MATTER OF LAW, AND MAY DEPEND ON THE SOURCE OF P&I
IN QUESTION.

2. WITH REGARD TO UN HQ AGREEMENT: SECTION 15 GRANTS
P&I ACCORDED TO DIPLOMATIC ENVOYS TO PRINCIPAL RESIDENT
REPS OF UN MEMBERS, AND SUCH RESIDENT MEMBERS OF THEIR
STAFFS AS MAY BE AGREED UPON BY US, UN SYG AND SENDING
STATE. LEADING CASE UNDER HQ AGREEMENT IS U.S. EX REL.
SANTIESTEBAN V. FITZPATRICK (1963), IN WHICH US DISTRICT
COURT IN NY HELD THAT STAFF OFFICIAL OF CUBAN UN MISSION
WAS NOT ENTITLED TO IMMUNITY FROM ARREST UNDER SECTION 15
UNTIL USG HAD ACTUALLY AGREED TO HISDESIGNATION, EVEN
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THOUGH HE HAD ARRIVED IN US UNDER G-1 VISA, CUBAN MISSION HAD NOTIFIED UN SYG OF HIS DESIGNATION AND SYG HAD NOTIFIED USG. HOWEVER, COURT IMPLIED THAT DESIGNATION BY SENDING STATE MIGHT BE SUFFICIENT FOR P&I OF PRINCIPAL RESIDENT REPS UNDER SECTION 15, AND FOR TRANSIT RIGHTS UNDER SECTION 11.

3. WITH REGARD TO INT. ORGS. IMMUNITIES ACT: SECTION 8 PROVIDES THAT NO P&I ATTACHES UNTIL DESIGNATION BY, OR NOTIFICATION TO AND ACCEPTANCE BY SECRETARY OF STATE.

4. WITH REGARD TO CONVENTION ON P&I OF THE UN: SECTION 11 GRANTS CERTAIN P&I TO REPS OF MEMBERS "WHILE EXERCISING THEIR FUNCTIONS AND DURING THEIR JOURNEY TO AND FROM THE PLACE OF MEETING", BUT DOES NOT FURTHER DEFINE WHEN P&I ATTACHES.

5. IN LIGHT OF ABOVE, PRESENT USUN PRACTICE IS NOT TO ACKNOWLEDGE P&I UNTIL DEPARTMENT'S APPROVAL RECEIVED. SINCE THIS NORMALLY OCCURS WITHIN 1-2 WEEKS, THIS RARELY PRESENTS ANY GROUNDS FOR DISPUTE. KISSINGER

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*** Current Handling Restrictions *** n/a
*** Current Classification *** LIMITED OFFICIAL USE

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